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NO 6

TRUST COMPANY RESERVES

MARGARET A. SCHAFFNER

MADISON WISCONSIN
MAY 1906

INTRODUCTION

In the light of the recent agitation in New York over trust company reserves, and of the doubts expressed as to the meaning of the Wisconsin trust company law, this bulletin containing a summary of all the laws relating to trust company reserves will be found suggestive and useful to business men and legislators.

CHARLES MCCARTHY,
Legislative Reference Department.

TRUST COMPANY RESERVES

MARGARET A. SCHAFFNER

COMPARATIVE LEGISLATION BULLETIN — No 6 — MAY 1906
Prepared with the co-operation of the Political Science Department of the University of Wisconsin

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REFERENCES

American Bankers' Association. Trust company section. Report of proceedings of the 8th annual convention. New York, Sept. 13, 1904. Bankers' magazine, Oct. 1904, vol. 69, p. 562–624.

Contains addresses by bankers and trust company officials which give valuable data on trust companies.

Cator, George. Trust companies in the United States. Baltimore, 1902. Johns Hopkins university. Studies in historical and political science. ser. 20, nos. 5–6.

Valuable historical and critical data. Also gives tabular statement of reserves required by law in the several states and territories in 1901, p. 92–3.

Gilman, Theodore. Trust company reserves; argument submitted to the committee on banks, assembly chamber, Albany, New York, Mar. 1, 1904. Bankers' magazine, Apr. 1904. vol. 68, p. 518–23.

Proposal to tax impairment of reserves.

Herrick, Clay. Trust companies; their organization, growth and management. Bankers' magazine, Jan.–Oct. 1904. vols. 68–69.

A series of articles appearing each month. Gives a comparative table showing reserves required of trust companies and banks in certain states of the United States in 1904, vol. 69, p. 440.

Kirkbride, F. B. & Sterrett, J. E. Modern trust company: its functions and organization. New York, 1905.

One of the best texts on trust companies. Includes bibliography, p. 291–5.

NESBITT, ROBERT C. Trust companies. Law society, London. Proceedings of the 29th provincial meeting. London, 1903, p. 234–64.

A description of the trustee companies of Australia, Public trust office of New Zealand, and the position of English companies or individuals analogous to these.

PHILLIPS, C. F. The business in foreign countries analogous to that of trust companies in the United States. American bankers' association—Trust company section. 5th annual convention, 1901.

Published in Bankers' magazine, Nov. 1901, vol. 63, p. 844–48.

RIDGELEY, W. B. Government control of banks and trust companies. Annals of the American academy, July, 1904, vol. 24, p. 15–267.

Discusses briefly the growth of trust companies and regulations with reference to reserves.

ROLLINS, MONTGOMERY. Laws regulating the investment of bank funds. Boston, 1905.

A convenient compilation of the laws of various states in the Union restricting the investment of funds of banks, trust, safe deposit companies, etc.

ROSENDORFF, RICHARD. Treuhandgesellschaften und ihre Funktionen. Jahrbücher für Nationalökonomie und Statistik, May, 1906. 3d ser. vol. 31, p. 604–621.

An interesting discussion of the organization of trust companies on the Continent.

WHITE, HORACE. Trust companies and the clearing house. Nation, Feb. 12, 1903, vol. 76, p. 126.

Gives a brief statement of the action of the New York clearing house as to trust company reserves.

YOUNG, G. W. & COMPANY. Digest of laws relating to trust companies of the United States. New York, 1905.

A convenient compilation giving contemporary law in classified form.

KINDS OF DEPOSITS

The changes in our law with respect to trust company reserves reflect the changes which have come about in the character of trust company deposits. As the scope of the trust company has broadened from a strictly fiduciary business until it has come to include a variety of activities similar to those carried on by commercial banks, its deposits have likewise changed in character.

Deposits against which reserves are required may be grouped according to their general nature under: 1. fiduciary deposits, or deposits held in trust; and 2. general banking deposits.

FIDUCIARY DEPOSITS

The "old line" trust company exists for the purpose of caring for the trustee business. The deposits which it receives are usually not subject to check and it generally requires prior notice for the withdrawal of funds. Many states require trust companies to deposit securities with state officials as a guarantee for the proper execution of trusts; such general deposit

being accepted in lieu of special bond or security in the case of each trust.

For typical laws requiring such deposits compare: Ill. Rev. St. 1905, c. 32, sec. 134–6; Mich. Comp. Laws, 1897, sec. 6157; Tex. Civ. St. 1897, art. 642; Wis. Rev. St. 1898, sec. 1791e.

Certain states also provide that trust funds and accounts must be kept separate from all other funds and accounts of trust companies.

See Ohio, Ann. St. 1906, sec. 3821b for a typical provision; also compare Ky. St. 1903, sec. 612a.

GENERAL BANKING DEPOSITS

The reserves required of trust companies against their general banking deposits frequently vary with the form of the liability. Certain states require a given percentage of reserve against all deposits without reference to their form. Others require a reserve only against certain prescribed liabilities.

Demand deposits

A majority of the states[1] which require reserves provide that the reserve is to be held against demand deposits.

Among the states which require reserves of demand deposits only are: Ala., Id., La., Mo., N. J., Tex. and W. Va. Other states require a reserve of deposits payable on demand or within ten days. See: Me., Mass. and Ohio.

[1] See laws of the states in alphabetic order under *Regulations*.

Deposits subject to check. In certain states trust companies are not permitted to open or carry current accounts against which checks may be drawn.

An opinion of the Attorney General of Wisconsin given in 1905, holds that funds received by trust companies are not subject to check.

The Attorney General of Iowa has recently given a similar opinion.

Demand certificates. In 1900 the United States Circuit Court held that, in the absence of statutory provisions on the subject, a trust company authorized to receive money on deposit has lawful authority to issue certificates of deposit in the usual form. Bank of Saginaw v. W. Pa. T. etc. Co. 105 Fed. 491.

Time deposits

In some states[1] a reserve of time deposits is also required.

Time certificates. Certain states specifically include time certificates among the liabilities against which a reserve is required.

For a typical case see Cal.

Savings deposits. The percentage required against savings deposits is frequently less than that against deposits payable on demand or against total deposits.

See the laws of Utah which require from 15 per cent to 20 per cent reserve of demand deposits as compared with a 10 per cent reserve for savings.

See also the laws of Kansas which require a reserve of only 10 per cent of time deposits as compared with 25 per cent of deposits subject to check; and the provisions of South Dakota[1] requiring 10 per cent of time as against 25 per cent of demand deposits.

Aggregate deposits

Quite a number of states[1] require a given percentage of reserve against all deposits of trust companies.

[1] For laws making this requirement see: Conn., Ga., N. M., N. Y., and Wy.

Ratio of reserves to deposits

Recent legislation shows a tendency to require reserves of trust companies but the ratio of reserve required frequently varies with the kind of deposits: in certain states the reserve is based upon total deposits, in others a distinction is drawn between the reserve required for time deposits and those payable on demand, in still others reserves are required of demand deposits only.

WHAT CONSTITUTES BANKING

The laws of the several states show an evident attempt to vary the amount of reserve according to the powers which trust companies are permitted to exercise.

In states where they are limited to strictly fiduciary activities there is usually less concern regarding a reserve than in those states in which they are also permitted to exercise functions usually performed by banks.

Much division of opinion exists not only as to whether trust companies are entitled to do a banking business, but also as to what really constitutes banking. The statutes on this point vary greatly in the

different states, and the court decisions present conflicting conclusions.[2]

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[2] See State v. Lincoln T. Co., 1898, 144 Mo., 562; Binghampton T. Co. v. Clark, 1898, 32 N. Y., App. Div., 151; Venner v. Farmers' L. & T. Co., 1900, 54 N. Y., App. Div., 271; and Bank of Saginaw v. W. Pa. T. etc. Co., 1900, 105 Fed., 491.

Also see 3 Am. & Eng. Enc. of Law (2d ed.), 789–91; 5 Cyc. of Law & Proc. 431–2; and Am. Dig. 1905B, col. 471.

REGULATIONS

The wide range of activities which trust companies undertake in the United States has made the question of reserves for their funds of greater significance in this country than in any other part of the world.

Foreign countries

In England strictly fiduciary business is still largely entrusted to individuals, and that which is done by banks is incidental to their general business. A few of the largest American trust companies have established branches in London and in some other foreign cities, but reports from these branches show that their operations are limited mainly to the issue of letters of credit and to the purchase and sale of exchange and of securities designed for investment.

In Germany[3] and Austria the so called mortgage banks undertake some classes of work commonly done by trust companies in the United States, but their fiduciary activities are limited. Within recent years cor-

[3] For general laws applying to trust companies see Bürgerl. Gesetz Buch, sec. 1189; also the Laws of July 13, and of Dec. 4, 1899.

porations exercising the usual trust company functions have sprung up in Germany, and certain American companies have established branches which do an active trust company business.

Among the institutions in France somewhat analagous to our trust companies may be included the Société Generale, the Credit Lyonnais, and especially the Credit Foncier.

In New Zealand[4] there has been a significant development in the establishment of the Public Trust Office, which was made a department of the government in 1872. Good faith in its administration is guaranteed by statute and the colony is pledged to maintain the integrity of funds placed within its care.[5]

These illustrations of the business of trust companies in foreign countries indicate that their most conspicuous function, apart from strictly fiduciary activities, is to handle interest bearing accounts, time certificates of deposit, debentures, and other long time funds of the community. Regulations with reference to their funds do not, therefore, have as great significance as if they performed the variety of functions undertaken by trust companies in the United States.

United States

Alabama. Laws, 1903, no. 522, secs. 5, 17. Requires a reserve of 15% of demand deposits, $\frac{3}{5}$ of

[4] See the Public Trust Office Consolidation Act, New Zealand, Statutes, 1894, Act, No. 50; also the amendments of 1895, Act, No. 61, and of 1901, Act, No. 55.

[5] For a typical regulation relating to Public Trustees in Australia, see South Australia, Acts, 1904, No. 854.

which may consist of balances due by banks and bankers.

Arizona. No provisions requiring a reserve.

Arkansas. No provisions requiring a reserve.

California. Laws, 1905, c. 296, sec. 24. If a trust company does a banking business, the general banking laws apply. Requires a cash reserve of at least 20% of its demand or immediate liabilities and time certificates of deposit in all places having a population of 200,000 and over; elsewhere the reserve required must be 15%. One-half of such cash reserve may consist of money on deposit, subject to call, with any solvent bank or trust company. Cash includes specie, national bank notes, legal tender notes, and all the paper obligations of the United States circulating as money, and exchanges for clearing house associations.

Colorado. No provisions requiring a reserve.[6]

Connecticut. Gen. St. 1902, sec. 3400. Requires a reserve fund of 15% of its aggregate deposits. Of this reserve, not less than $\frac{4}{15}$ is to consist of gold and silver coin, the demand obligations of the United States or national bank currency, and is to be held by

[6] See Ann. St. Rev. Supp. 1896, vol. 3, sec. 544, providing that trust companies may not transact a banking business, but the fact that they are permitted to receive demand deposits and to discount paper indicates that the line between that which is, and that which is not, strictly banking business has not been closely drawn.

such bank or trust company in its banking office. The remainder may consist of balances, subject to demand draft with approved reserve agents, and of railroad bonds which are legal investments for saving banks of the state. The railroad bonds are at no time to exceed at par value $\frac{1}{3}$ of the total reserve.

Delaware. No provisions requiring a reserve.

District of Columbia.[7] No provisions requiring a reserve.

Florida. No provisions requiring a reserve.

Georgia. Code, 1895, sec. 1941, Supp. 1901, sec. 6462. Trust companies doing a banking business are required to keep a cash reserve equal to at least 25% of aggregate deposits.

Hawaii. No provisions requiring a reserve.

Idaho. Laws, 1905, p. 175. Requires a reserve in available funds of not less than 15% of demand liabilities but $\frac{1}{2}$ of such sum may consist of balances due from solvent banks.

Illinois. Rev. St. 1905, c. 32, secs. 129–47. There is no provision requiring a reserve, but it is the practice of the State Auditor to require state banks, located in Chicago, exercising trust company powers to

[7] Trust companies are organized under Act of Cong. Oct. 1, 1890.

carry a cash reserve of not less than 25% of their commercial deposits. A less reserve is required of contract or savings deposits. Institutions elsewhere are required to maintain a reserve of 15% of commercial deposits.

Indiana. No provisions requiring a reserve.

Iowa. Code, 1897, secs. 1867, 1889 as amended by Laws, 1904, c. 65. Provides that trust companies organized under the banking laws may receive time deposits. The reserve required of companies thus organized is 15% of total deposits in places having a population of 3,000 or over, and 10% elsewhere; ¾ of the reserve may be kept on deposit subject to call with other state or national banks.

Kansas. Gen. St. 1905, sec. 1528. Requires a reserve for trust companies equal to 25% of deposits subject to check and 10% of time deposits, in the same manner and subject to the same rules as state banks. In lieu of deposits in banks, the legal reserve may include United States bonds and demand loans secured by United States, state, county, or municipal bonds of the cash value of such loans.

Kentucky. St. 1903, secs. 584, 612a. Trust companies doing banking business are required to reserve at least 15% of total deposits and in cities of over 50,000 population, at least 25%. Of this reserve ⅓ is to be in money and the balance in funds payable on demand from other banks.

Louisiana. Laws, 1902, no. 45. Requires a reserve in lawful money of the United States or in cash due from other banks or bankers equal to 25% of the aggregate amount of its demand deposits, 8% of which is to be kept in cash. The remainder may be lawful money of the United States, cash due from other banks, bills of exchange, discounted paper maturing within not more than one year, bonds, stocks, or securities of the United States, of any state of the United States, of the municipalities, or corporations, public or private, thereof, or of the levee boards of Louisiana; provided that deposits, made in a savings bank or in a savings department of a bank also doing a general banking and trust banking business, which are made on the condition that they may not be withdrawn except on notice, are not to be considered demand deposits within the meaning of this section.

Maine. Rev, St. 1903, c. 48, sec. 80, as amended by Laws, 1905, c. 15. Requires a cash reserve equal to at least 15% of the aggregate amount of its deposits subject to withdrawal on demand or within ten days. In lieu of such cash reserve $\frac{2}{3}$ of the 15% may consist of balances payable on demand due from approved banks and trust companies and $\frac{1}{3}$ may consist of bonds of the United States, of the District of Columbia, and of certain designated states.

Maryland. Trust companies operate under charters granted by special acts of the Legislature and any limitations as to reserves are to be found in the separate charters.

Massachusetts. Laws, 1904, c. 374, as amended by Laws, 1905, c. 331. Requires a reserve of 15% of the aggregate amount of deposits which are subject to withdrawal upon demand or within ten days. Not less than 1/3 of such reserve is to consist either of lawful money of the United States, gold certificates, silver certificates, or notes and bills issued by any lawfully organized national banking association, and not less than 1/2 of the remainder of such reserve may consist of balances, payable on demand, due from approved national banking associations, and the remainder may consist of bonds of the United States or of the commonwealth computed at their par value, which are the absolute property of such corporation.

Michigan. Comp. Laws, 1897, sec. 6165. Requires a reserve of 20% of matured obligations and money due and payable, 3/4 of which may be kept in approved banks or trust companies.

Minnesota. No provisions requiring a reserve.

Mississippi. No provisions requirng a reserve.

Missouri. Rev. St. 1899, secs. 1280, 1304. Requres a reserve equal to at least 15% of the aggregate amount of demand deposits.

Montana. Civ. Code, 1895, secs. 584, 590–611. There is no law specifically requiring trust companies to carry a reserve, but it is the practice of the banking department to require the same reserve against trust

company deposits as is required of banks of discount. This reserve must equal at least 20% of immediate liabilities. Of this amount ½ is to consist of balances due from solvent banks and ½ is to be held in cash which may include specie, legal tender notes, and all bills of solvent banks.

Nebraska. No provisions requiring a reserve.

Nevada. No provisions requiring a reserve.

New Hampshire. No provisions requiring a reserve.

New Jersey.[8] Laws 1899, c. 174, sec. 20. Requires a reserve of at least 15% of all immediate demand liabilities. Of this amount ⅓ may consist of balances due from solvent banks or trust companies and ⅔ is to be held in cash on hand.

New Mexico. Laws, 1903, c. 52, sec. 10. Requires a reserve of at least 15% of the aggregate amount of liabilities not including those liabilities for which bonds of at least $50,000 must be deposited with the Auditor of the Territory. Of this reserve ⅔ may consist of balances due from approved national, state, or territorial banks or trust companies.

[8] See N. J. Laws, 1899, c. 174, sec. 7, forbidding trust companies to discount commercial paper. However, sec. 10 gives them specific authority to purchase, invest in and sell promissory notes and bills of exchange, and sec. 18 gives them authority to receive deposits subject to check. In reality, therefore, N. J. permits trust companies to do actual banking business.

New York. Laws, 1906, c. 337. Requires trust companies having principal place of business in any city with a population of over 800,000, to keep on hand a reserve fund equal to at least 15% of aggregate deposits. The whole of such reserve fund may, and at least $\frac{1}{3}$ must, consist of either lawful money of the United States, gold certificates, silver certificates, or notes or bills issued by any lawfully organized national banking association; $\frac{1}{3}$ may consist of bonds, computed at their par value, issued by the United States, New York state or those issued in compliance with law by any city of the first or second class in the state; the balance must consist of money on deposit subject to call, in approved banks or trust companies in the state having a capital of at least $200,000 or a capital and surplus of $300,000.

Trust companies having principal place of business in cities of less than 800,000, are required to keep on hand a reserve fund equal to at least 10% of aggregate deposits. The provisions for the composition of the reserve are similar to those for the larger cities except that the percentage is 30 instead of $33\frac{1}{3}$.

North Carolina. Each trust company is incorporated by special act of the Legislature and any limitations as to reserves are to be found in the separate charters.

North Dakota. No provisions requiring a reserve.

Ohio. Ann. St. 1906, sec. 3821b. Requires a reserve equal to 15% of demand deposits or those payable within ten days. Of this reserve $\frac{1}{3}$ may consist

of clearing house certificates representing specie or lawful money, ⅓ must consist of bonds of the United States or of Ohio, and the remaining ⅓ must be in lawful money of the United States.

Oklahoma. No provisions requiring a reserve.

Oregon. No provisions requiring a reserve.

Pennsylvania.[9] No provision of law requiring a reserve. However, the Banking Department requires a reserve in cash and amounts due from banks of 15% for country companies and approximately 20% for city companies.

Rhode Island. Each trust company is incorporated by special act of the Legislature and any limitations as to reserves are to be found in the separate charters.

South Carolina. Provisions similar to Rhode Island.

South Dakota. Laws, 1905, c. 74. Requires a reserve of cash on hand or on deposit in solvent banks equal to 10% of time deposits and 25% of deposits payable on demand.

Tennessee. No provisions requiring a reserve.

Texas. Laws, 1905, c. 10. Requires a reserve of

[9] See Pa. Dig. of Laws, 1903, p. 271, secs. 1–21, prohibiting trust companies from engaging in banking except as authorized. However, they are granted power to receive demand deposits, and to purchase bills of exchange. As the power to purchase commercial paper differs only in form from the power to discount it, trust companies are really permitted to undertake important banking functions.

cash on hand and cash due from approved banks and trust companies equal to at least 25% of the aggregate amount of demand deposits; 10% of such reserve is to be actual cash.

Utah. Rev. St. 1898, secs. 378, 424. Requires a reserve of demand deposits equal to 20% in cities of 25,000 or over and 15% elsewhere; also provides a reserve of 10% for savings deposits.

Vermont. There is no provision of law regarding a reserve.[10]

Virginia. Trust companies are incorporated by the State Corporation Commission and any limitations as to reserves are to be found in their separate charters.

Washington. No provisions requiring a reserve.

West Virginia. Laws, 1901, c. 83, as amended by Laws, 1905, c. 45. Requires a reserve equal to at least 15% of demand deposits. In lieu of lawful money, ¾ of such reserve may consist of balances payable on demand due from approved banks.

Wisconsin. No provisions requiring a reserve.

Wyoming. Rev. St. 1899, sec. 3132 as amended by Laws, 1903, c. 50. Requires a reserve of at least 25% of liabilities to depositors. This reserve is to consist of cash on hand or on deposit subject to call with national or state banks approved as reserve agents.

[10] However, see Vermont St., 1894, sec. 4106, providing that deposits not exceeding in the aggregate 20% of a company's assets may be made in designated banks or trust companies.

MAINTENANCE OF THE RESERVE

Provisions Requiring Maintenance

The provisions requiring maintenance of a reserve may be grouped under: 1. statutory requirements; 2. regulations of state department,—usually the banking department; 3. limitations in charters granted by special acts of the legislature.

Statutory requirements

A reserve is definitely required by law in about half of our states.[11]

For typical provisions compare the laws of the following states: Ala., Cal., Conn., Ga., Id., Kan., Ky., La., Me., Mass., Mich., Mo., N. J., N. M., N. Y., Ohio, S. D., Tex., Ut., W. Va., Wy.

Regulations of state departments

In several states where there are no statutory provisions, reserves are required by the state banking department, by the state auditor, or by other officials entrusted with the supervision of trust companies.

Compare the regulations imposed in: Ill., Mont. and Pa.

[11] See laws of states in alphabetic order under *Regulations.*

Limitations in charters

In states where trust companies are incorporated only by special act of the legislature, such limitations as may exist with regard to reserves are to be found in the separate charters.

For states illustrating this method compare: Md., N. C., R. I., and S. C. Also see Va. for companies incorporated by the State Corporation Commission.

Penalties for Impairment

Penalties for failure to maintain the reserve required by law may be grouped under: 1. suspension of loans and discounts; 2. prohibition of dividends; 3. tax on impairment of reserves; and 4. declaration of insolvency.

Suspension of loans and discounts

One of the most common methods of compelling maintenance of the reserve is to prohibit the making of new loans and discounts until the reserve has been restored to the required amount.

The New York[12] law of 1906 which is typical of this method provides that if the money reserve of any trust company is less than the amount required by law such trust company is not to increase its liability by making any new loans or discounts otherwise than by discounting bills of exchange payable on sight until the full amount of its lawful money reserve has been restored. The superintendent of banks is to notify any trust company whose lawful reserve is below the amount required, that it must make good such

[12] Laws, 1906, c. 337.

reserve, and if it fails to do so within thirty days it is to be deemed insolvent and may be proceeded against as an insolvent moneyed corporation.

For similar provisions see: Conn. Gen. St. 1902, sec. 3400; Me. Rev. St. 1903, c. 48, sec. 80; N. J. Laws, 1899, c. 174, sec. 20; N. M. Laws, 1903, c. 52; Ohio, Ann. St. 1906, sec. 3821b; Tex. Laws, 1905, c. 10; W. Va. Laws, 1901, c. 83 as amended by Laws, 1905, c. 45.

Prohibition of dividends

Another common requirement provides that trust companies shall not make dividends of profits until the reserve is restored.

For provisions on this point see: Conn. Gen. St. 1902, sec. 3400; N. M. Laws, 1903, c. 52; N. Y. Laws, 1906, c. 337; Ohio, Ann. St. 1906, sec. 3821b; W. Va. Laws, 1901, c. 83 as amended by Laws, 1905, c. 45.

Tax on impairment of reserves

A tax on impairment of reserves has been urged as a substitute for the suspension of loans and discounts. Placing a tax on deficiencies, sufficiently high to make it unprofitable for a bank to allow the impairment to continue, would, it is maintained, provide greater elasticity with sufficient rigidity for safety. This method for maintaining reserves was recently urged before the New York legislature.[13]

Fines for impairment. Certain states impose forfeitures or fines in case of impairment of reserves below the point required.

Alabama, Laws, 1903, no. 522, provides for forfeiture in case of impairment of reserves in banks or trust companies as follows: whenever it appears to the State Treasurer that

[13] See argument by Theodore Gilman submitted to the Committee on Banks, Assembly Chamber, Albany, N. Y., Mar. 1, 1904.

the reserve has fallen below the amount prescribed, he is to give notification that it is to be made good, and in case the company fails to restore the reserve within thirty days, it is to forfeit $25 to the State for each day thereafter until the reserve is restored.

The penalties imposed for impairment of reserves, by the Montana Civ. Code, 1895, sec. 584, relate specifically to banks, but it is the practice of the Banking Department to apply the provisions to trust companies. The provisions require that whenever the available funds on hand do not equal the amount provided for by law the State Examiner must require the company to make good the reserve, and if it fails to do so within thirty days after notice, it is to be deemed guilty of a misdemeanor, and upon conviction is to be punished by a fine of not less than $100 nor more than $500.

Declaration of insolvency

The power to declare a company insolvent, if it continues in its refusal to restore the reserve, is usually vested in officials connected with the banking departments in the several states.

Thus the Massachusetts[14] law provides that the Board of Commissioners of Savings Banks may notify any trust company whose reserve is below the amount required to make good such reserve, and if it fails to do so within sixty days the Commissioners may apply to a Justice of the Supreme Judicial Court to appoint one or more receivers to take possession of the property and effects of the company and to close up its business, subject to such directions as may from time to time be prescribed by the court.

See also: Conn. Gen. St. 1902, sec. 3400; Ky. St. 1903, sec. 616; N. M. Laws, 1903, c. 52; N. Y. Laws, 1906, c. 337.

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[14] Laws, 1904, c. 374, sec. 7.

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